

# IN CALIFORNIA Restaurant WORKERS HAVE RIGHTS

**Y**our rights as a restaurant worker are enforced and protected by the California Department of Industrial Relations, Division of Labor Standards Enforcement (DLSE). DLSE investigates and resolves complaints about discrimination, wages, child labor, hours of work and working conditions. You are protected under Industrial Welfare Commission wage order 5-2001.

Whether you are a documented or undocumented worker in California, you have rights protected by state laws that guarantee payment of wages for work performed. It is the policy of the California Department of Industrial Relations not to question your immigration status.

Here are some rights that protect your working conditions:



## **1 The right to be paid the minimum wage and accept gratuities (tips)**

You are to be paid no less than minimum wage of \$6.75 per hour, whether the pay is measured by time, piece rate, commission or other method of calculation. With few exceptions, all wages earned are due and payable at a minimum of twice during each calendar month on your regular payday. Tips cannot be used as payment toward the minimum wage.

Employees who serve customers are entitled to receive any portion of gratuity payments from customers. However, your employer may require a tip pooling arrangement for you to share your tips with waitpersons, busepersons and bartenders.

## **2 The right to a net 10-minute rest period**

You must be permitted to take a net 10-minute rest period for every four hours worked or major fraction thereof which to the extent possible shall be in the middle of each work period. If your employer does not provide you a rest period, your employer must pay you one additional hour of pay at your regular rate of pay for each workday the rest period is not allowed.

## **3 The right to a meal period**

You are entitled to a meal period of at least 30 minutes if you work more than five hours. You must be relieved of all work duty during your meal period. Each workday you are not provided a meal period, or you perform work during your meal period, your employer must pay you one additional hour of pay at your regular rate of pay. You have the right to a clean rest and meal area.

## **4 The right to file a workers' compensation claim if you are injured on the job**

For fact sheets, information and assistance in filing a workers' compensation claim, call toll free: **1-800-736-7401** or visit [www.dir.ca.gov](http://www.dir.ca.gov) and click on the Division of Workers' Compensation. You have the right to process your workers' compensation claim and are protected from termination.

## **5 The right to be provided tools and supplies necessary to do your work**

Tools, supplies and uniforms (required by your employer) should be provided and maintained by your employer at no cost to you. If you earn two times the minimum wage, you may be asked to provide and maintain the hand tools required to do your work (i.e. chef knives, cooking utensils). Your employer must provide you with regular workplace health and safety training. If you are required to use your own vehicle for work-related responsibilities or purchase gasoline for a company vehicle, your employer must reimburse those expenses and compensate you for your travel time.

## **6 The right to a pay stub or wage statement every time you are paid your wages**

Whether you are paid by check, in cash or otherwise, you must receive a pay stub or a written wage statement showing among other things: your employer's name, address and telephone number; your name and social security number; gross wages earned; all deductions; and the dates for the period you are being paid. You have the right to a regularly scheduled payday and your employer must comply with the established payday. Your employer also has the legal obligation to keep records about you, your work hours and your pay.

Continued on reverse



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**The right to be paid every time your employer asks you to report to work**

Each workday you are required to report for work and you do report, but you are not put to work or you are furnished less than half of your usual or scheduled day’s work, you shall be paid for half the usual or scheduled day’s work, but in no event for less than two hours nor more than four hours, at your regular rate of pay.

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**The right to be paid all wages by your employer the same day you are terminated or within 72 hours of a voluntary quit**

If you are terminated, your employer must pay you all wages due immediately. If you voluntarily quit without giving 72 hours prior notice, your employer must pay you within 72 hours. If your employer fails to pay you, they may be penalized and required to pay you the equivalent of one-day’s wages for each day delayed in paying your wages (up to a maximum of 30 days).

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**The right to file a wage claim, a discrimination complaint or speak to the California labor commissioner regardless of your immigration status and without retaliation from your employer**

You have the right (free from retaliation) to process your wage claim, attend hearings to recover unpaid wages and investigate retaliation complaints. You may discuss labor issues with the DLSE and/or your employer under protection of the law and your employer may not discharge, demote, suspend or discipline you in any manner for this reason. You may file a complaint with the labor commissioner for reinstatement, full back pay, and any other appropriate remedy if you feel you were discharged because you engaged in such activity.

**Wage claim tip: Keep your own time records.** Write down every day the time you begin work, when you end work, the time you take meal and rest breaks, the total hours you work and record your hourly rate.

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**The right to be paid for a split shift**

Split shift is a work schedule interrupted by non-paid and non-working time periods established by your employer (and it is not a rest or a meal period). If you are paid the minimum wage and work a split shift, you may be entitled to an additional one-hour’s pay at the minimum wage.

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**The right to be paid overtime**

Unless you work under a legally adopted alternative workweek schedule, you should be paid overtime pay (one-and-one-half of your regular rate of pay) if you work more than eight hours per workday or 40 hours per workweek. If you work more than 12 hours per workday, you are entitled to receive double time rate (twice your hourly rate). You may be entitled to overtime or double time pay even if you work less than 40 hours per workweek.

Eight hours of labor constitutes a day’s work, and employment beyond eight hours in any workday or more than six days in any workweek is permissible provided the employee is compensated for the overtime. If you are a nonexempt employee who is paid a salary, you may also qualify for overtime. Contact the DLSE if you have questions.

Contact the California Division of Labor Standards Enforcement (DLSE) district offices for labor law information, assistance and to obtain a claim form to file a complaint:

<b>Bakersfield</b>	(661) 395-2710 5555 California Avenue, Suite 200, 93309
<b>El Centro</b>	(760) 353-0607 1550 West Main Street, 92243
<b>Eureka</b>	(707) 445-6613 619 Second Street, Room 109, 95501
<b>Fresno</b>	(559) 244-5340 770 East Shaw Avenue, Suite 315, 93710
<b>Long Beach</b>	(562) 590-5048 300 Oceangate, Suite 302, 90802
<b>Los Angeles</b>	(213) 620-6330 320 West 4th Street, Suite 450, 90013
<b>Oakland</b>	(510) 622-3273 1515 Clay Street, Suite 801, 94612
<b>Redding</b>	(530) 225-2655 2115 Civic Center Drive, Room 17, 96001
<b>Sacramento</b>	(916) 263-1811 2031 Howe Avenue, Suite 100, 95825
<b>Salinas</b>	(831) 443-3041 1870 North Main Street, Suite 150, 93906
<b>San Bernardino</b>	(909) 383-4334 464 West Fourth Street, Room 348, 92401
<b>San Diego</b>	(619) 220-5451 7575 Metropolitan Drive, Suite 210, 92108
<b>San Francisco</b>	(415) 703-5300 455 Golden Gate Avenue, 8th floor, 94102
<b>San Jose</b>	(408) 277-1266 100 Paseo de San Antonio, Room 120, 95113
<b>Santa Ana</b>	(714) 558-4910 28 Civic Center Plaza, Room 625, 92701
<b>Santa Barbara</b>	(805) 568-1222 411 East Canon Perdido Street, Room 3, 93101
<b>Santa Rosa</b>	(707) 576-2362 50 “D” Street, Suite 360, 95404
<b>Stockton</b>	(209) 948-7770 31 East Channel Street, Room 317, 95202
<b>Van Nuys</b>	(818) 901-5315 6150 Van Nuys Blvd., Room 206, 91401



photos by Robert Gumpert

**Cal/OSHA**  
1-800-963-9424  
**Cal/OSHA local offices:**  
**Northern California**  
(916) 263-0704  
**San Diego**  
(619) 767-2060  
**Los Angeles**  
(562) 944-9366  
**San Francisco Bay Area**  
(510) 622-2891  
  
**Minimum wage:**  
1-888-275-9243 (ASK-WAGE)  
**Prevailing wage hotline:**  
(415) 703-4774

The simplified information contained in this flyer is provided to you from the California laws and regulations concerning wages, hours and working conditions; they are not legal interpretations of the California labor code, administrative code or the Industrial Welfare Commission wage orders. California labor laws can be found by contacting the Division of Labor Standards Enforcement (DLSE) offices or by visiting the Web sites:

[www.dir.ca.gov](http://www.dir.ca.gov)  
[www.workitout.ca.gov](http://www.workitout.ca.gov)